

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JAMES W. EDMONDS,

Plaintiff,

v.

JAMES A. BYROM, *et al.*,

Defendants.

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CIVIL ACTION NO. 5:10-CV-509(MTT)

ORDER

This matter is before the Court on the Defendants' Motion to Dismiss (Doc. 3), the Plaintiff's Motion to Withdraw Pleadings (Doc. 12) and the Plaintiff's Motion to Amend (Doc. 13). All motions are GRANTED.

At a February 11, 2011 hearing on the Defendants' Motion for Protective Order (Doc. 5), the Court instructed the Plaintiff to file his response to the Defendants' Motion to Dismiss no later than February 18, 2011. Instead of responding to the motion, the Plaintiff filed a "Motion to Withdraw Pleadings" (Doc. 12). The Plaintiff stated in his motion that "except for the issues pertaining to the **Plaintiffs Amended Complaint**, the Plaintiff wishes the court's permission to withdrawal all other pleadings and motions now before the court including all issues in the plaintiff's original complaint except for those issues specifically complained about in the plaintiff's amended complaint." The "amended complaint" to which the Plaintiff refers is a pleading also filed February 18 titled "Motion to Amend Complaint." In this motion, the Plaintiff asks "the court's permission to bring this **Amended Complaint**" The motion then proceeds to

attempt to state a claim against the individual defendants arising from an alleged attempt by Defendant Carolyn Medlock to keep the Plaintiff from trespassing on school property.

Because the Plaintiff did not respond to the Defendants' Motion to Dismiss, the Defendants' motion is GRANTED and the Plaintiff's Complaint is DISMISSED. The Court notes that the Plaintiff, by filing his motion to withdraw pleadings, apparently is in agreement with the dismissal of his complaint. In any event, the Plaintiff's motion to withdraw his original complaint and any other pleading, other than his amended complaint, setting forth allegations against the defendants is GRANTED. Because the Plaintiff filed his amended complaint within 21 days of the service of the Defendants' motion to dismiss, he is entitled to amend his complaint as a matter of right. Therefore, his motion to amend is GRANTED. The Court notes that the amended complaint was filed February 18, 2010.

This 23rd day of February, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT